



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

January 15, 2015

Daniel F. O'Neill, P.E.  
Executive Director  
Lynn Water & Sewer Commission  
400 Parkland Avenue  
Lynn, MA 01905-1138

Re: Request for Information Pursuant to Section 308 of the Clean Water Act,  
Docket No. 15-308-011

Dear Mr. O'Neill

It has come to the attention of the Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("MassDEP") that the Lynn Water and Sewer Commission ("LWSC") has received from CH2MHill, its consulting engineer, a draft update of Lynn's Supplemental Combined Sewer Overflow (CSO) Control Plan (the "CSO plan"). A public hearing was held on December 15, 2014 to solicit comments on the draft update of the CSO plan. The agencies recognize that the LWSC Board has not yet voted to adopt the recommendations of the draft update. However, the agencies would not expect significant changes to the collection system hydraulic model, the assessment of CSO control technologies, and the identification of CSO abatement alternatives. Given the ongoing CSO discharges and flooding from sewer backups in low-lying areas of Lynn, the agencies believe that beginning review of the update to the CSO plan now will expedite its eventual approval and implementation.

Section 308(a) of the Federal Clean Water Act (the "Act"), 33 U.S.C. § 1318(a), authorizes the EPA to require any owner or operator of a point source to provide information needed to determine whether there has been a violation of the Act. Accordingly, LWSC is hereby required, pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a) to provide the following information within **fifteen (15) calendar days of your receipt of this letter**:

1. A copy of the most recent draft update of the CSO Plan, including all appendices and attachments.

Your response to this Request for Information (the "Request") must be accompanied by a certificate that is signed and dated by the person who is authorized to respond to the Request. A Statement of Certification, Attachment No. 1, is attached to this letter.

Information submitted pursuant to this Request shall be sent by certified mail and shall be addressed as follows:

United States Environmental Protection Agency  
New England Region  
5 Post Office Square Suite 100 (OES 04-4)  
Boston, MA 02109-3912  
Attn: George Harding, P.E.

Massachusetts Department of Environmental Protection  
Northeast Regional Office  
205 B Lowell Street  
Wilmington, MA 01887  
Attn: Kevin Brander, P.E.

Compliance with this Request is mandatory. Failure to respond fully and truthfully or to adequately justify any failure to respond within the time frame specified above also constitutes a violation of the Clean Water Act subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001.

The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses the opportunity to submit comments on regulatory enforcement at the time of an Agency enforcement action. The Information Sheet (Attachment No. 2) contains information regarding their rights, and describes compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. EPA routinely provides this information to businesses whether or not they qualify as small businesses, as defined by the Small Business Administration. Please be aware that availing yourself of this opportunity does not relieve your facility of its responsibility to comply with applicable federal and state laws and regulations.

LWSC may assert a business confidentiality claim with respect to part or all of the information submitted to EPA in the manner described at 40 C.F.R. Part 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to City.

We remind the Board that LWSC's continued CSO discharges are a violation of the federal Clean Water Act and the Massachusetts Water Quality Standards. The continued CSO discharges are also in violation of the terms and conditions of the Second Modified Consent Decree (SMCD), which included a schedule for complete elimination of Lynn's CSO discharges. While LWSC has advised both EPA MassDEP on issues contributing to the non-compliance,



there will need to be a meeting amongst the court parties and further negotiations to modify the SMCD requirements for CSO control. EPA, working in collaboration with the state Attorney General's office, the U.S. Attorney's Office, and MassDEP, reserves any and all rights to take actions deemed necessary to bring the LWSC into compliance with the requirements of the Clean Water Act and the Massachusetts Water Quality Standards, including the imposition of monetary penalties. Commitments by LWSC to proceed expeditiously with planning, design, and construction of CSO control facilities will be essential to reach agreement on modifications to the existing SMCD. We view approval and funding of the additional SOW items to be critical to this process.

If you have any questions regarding this letter, please contact George Harding at 617-918-1870.

Sincerely,



James Chow, Manager  
Technical Enforcement Office  
Office of Environmental Stewardship

Cc: Michael Wagner, EPA  
George Harding, EPA  
George B. Henderson, U.S. Attorney's Office  
Andrew Goldberg, Mass. Attorney General's Office/EPD  
Eric Worrall, MassDEP NERO  
Kevin Brander, MassDEP NERO

**Attachment No. 1****Statement of Certification**

I declare under penalty of perjury that I am authorized to respond on behalf of the Lynn Water and Sewer Commission. I certify that the foregoing responses and information submitted were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)